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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 403, 405, 410, 411, 412, 413, 414, 425, 489, 495, and 498

[CMS-1612-CN]

RIN 0938-AS12

Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule, Clinical Laboratory Fee Schedule, Access to Identifiable Data for the Center for Medicare and Medicaid Innovation Models & Other Revisions to Part B for CY 2015; Corrections

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Correction of final rule with comment period.

SUMMARY: This document corrects technical errors that appeared in the final rule with comment period published in the **Federal Register** on November 13, 2014, entitled “Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule, Clinical Laboratory Fee Schedule, Access to Identifiable Data for the Center for Medicare and Medicaid Innovation Models & Other Revisions to Part B for CY 2015.”

DATES: The correcting document is effective January 1, 2015.

FOR FURTHER INFORMATION CONTACT:

Melissa Heesters (410) 786-0618, for issues related to reports of payments or other transfers of value to covered recipients.

Amy Gruber (410) 786-1542, for issues related to changes in geographic area designations for ambulance payment.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2014-26183 of November 13, 2014 (79 FR 67547 through 68092), there were a number of technical errors that are identified and corrected in the Correction of Errors section

below. These corrections are effective January 1, 2015. We note that the ambulance fee schedule ZIP code files for the CY 2015 Physician Fee Schedule (PFS) final rule with comment period as corrected in this correction notice are available on the CMS website at

<http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/AmbulanceFeeSchedule/index.html>.

II. Summary of Errors

A. Summary of Errors in the Preamble

On page 67548, we inadvertently only listed §403.904(c)(8) with a compliance date of January 1, 2016 for new data collection requirements. However, all of the changes in §403.904 are effective January 1, 2016.

On pages 67747, 67749, 67750 and 67993 in our discussion of the updated Zip code analysis based on OMB's revised delineations and updated Rural-Urban Commuting Area (RUCA) codes, the percentages and totals of the ZIP codes changing from urban to rural and from rural to urban, the percentages and totals of the ZIP codes not changed, and the referenced state impacts are incorrect due to a technical error in the application of the updated RUCA codes. In addition, the total number of ZIP codes is incorrect.

On pages 67748 through 67749, in Table 47: Updated ZIP Codes Analysis Based on OMB's Revised Delineations and Updated RUCA Codes, the totals and percentages of the ZIP codes changing from urban to rural and from rural to urban, and the totals and percentages of the ZIP codes not changed are incorrect in certain rows of the table due to a technical error in the application of the updated RUCA codes. In addition, the total number of ZIP codes in East Missouri and the total number of ZIP codes in the country are incorrect.

B. Summary and Correction of Errors on the CMS Website

As discussed in section II.A. of this correcting document, as a result of a technical error in the application of the updated RUCA codes, certain ZIP code data in Table 47 of the CY 2015

PFS final rule with comment period and the updated analysis of this data in that final rule with comment period were incorrect. For the same reason, there were errors in the ambulance fee schedule ZIP code files that were made available on the CMS website. These errors are corrected in the revised ZIP code files available on the CMS website at

<http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/AmbulanceFeeSchedule/index.html>.

III. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive this notice and comment procedure if the Secretary finds, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice.

Section 553(d) of the APA ordinarily requires a 30-day delay in the effective date of final rules after the date of their publication in the **Federal Register**. This 30-day delay in effective date can be waived, however, if an agency finds for good cause that the delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued.

This document merely corrects typographical and technical errors in the preamble of the CY 2015 PFS final rule with comment period. The provisions of that final rule with comment period have been subjected to notice and comment procedures. The corrections contained in this document are consistent with, and do not make substantive changes to, the policies and payment methodologies that were adopted in the CY 2015 PFS final rule with comment period. As a result, the corrections made through this correcting document are intended to ensure that the CY 2015 PFS final rule with comment period accurately reflects the policies adopted in that rule.

Therefore, we find for good cause that it is unnecessary and would be contrary to the public interest to undertake further notice and comment procedures to incorporate the corrections in this document into the CY 2015 PFS final rule with comment period. For the same reasons, we find that there is good cause to waive the 30-day delay in the effective date for these corrections.

Further, we believe that it is in the public interest to ensure that the CY 2015 PFS final rule with comment period accurately reflects our policies as of the date they take effect. Therefore, we find that delaying the effective date of these corrections beyond the effective date of the final rule with comment period would be contrary to the public interest. In so doing, we find good cause to waive the 30-day delay in effective date.

IV. Correction of Errors

In FR Doc. 2014-26183 of November 13, 2014 (79 FR 67547), make the following corrections:

A. Correction of Errors in the Preamble

1. On page 67548, first column, fourth full paragraph, line 3, remove “(c)(8)”.
2. On page 67747, second column, first full paragraph,
 - a. Line 6, the phrase “42,918 ZIP codes” is corrected to read “42,919 ZIP codes”.
 - b. Line 9, the phrase “approximately 92.02” is corrected to read “approximately 95.22”.
 - c. Line 14, the phrase “from rural to urban (3,038” is corrected to read “from rural to urban (1,600”.
 - d. Line 15, the phrase “or 7.08 percent)” is corrected to read “or 3.73 percent)”.
 - e. Line 16, the phrase “(387 or 0.90 percent)” is corrected to read “(451 or 1.05 percent).”.
 - f. Line 21, the phrase “providers and suppliers in 387 ZIP” is corrected to read “providers and suppliers in 451 ZIP”.
3. On page 67747, third column,

- a. Line 1, the phrase “codes within 41 states” is corrected to read “codes within 42 states”.
- b. Line 6, the phrase “state of California” is corrected to read “state of Ohio”.
- c. Line 8, the phrase “a total of 43, or 1.58 percent” is corrected to read “a total of 54, or 3.63 percent.”.
- d. Line 9, the phrase “providers and suppliers in 3, 038 ZIP” is corrected to read “providers and suppliers in 1,600 ZIP”.
- e. Line 10, the phrase “within 46 states” is corrected to read “within 44 states”.
- f. Line 15, the phrase “The state of Pennsylvania has” is corrected to read “The state of West Virginia has”.
- g. Line 17, the phrase “urban (293, or 13.06 percent)” is corrected to read “urban (149, or 15.92 percent).”.
- h. Lines 17 through 21, the phrase “, while West Virginia has the greatest percentage of ZIP codes changing from rural to urban (269 Zip codes, or 28.74 percent)” is removed.

4. On pages 67748 through 67749, Table 47: Updated ZIP Codes Analysis Based on OMB’s Revised Delineations and Updated RUCA Codes, the table is corrected to read as follows:

| State/ Territory* | Total ZIP Codes | Total ZIP Codes Changed Rural to Urban | Percentage of Total ZIP Codes | Total ZIP Codes Changed Urban to Rural | Percentage Of Total ZIP Codes | Total ZIP Codes Not Changed | Percentage of Total ZIP Codes Not Changed |
|----------------------|--------------------|---|-------------------------------------|--|-------------------------------------|---|---|
| AK | 276 | 0 | 0.00% | 0 | 0.00% | 276 | 100.00% |
| AL | 854 | 43 | 5.04% | 8 | 0.94% | 803 | 94.03% |
| AR | 725 | 19 | 2.62% | 9 | 1.24% | 697 | 96.14% |
| AS | 1 | 0 | 0.00% | 0 | 0.00% | 1 | 100.00% |
| AZ | 569 | 21 | 3.69% | 7 | 1.23% | 541 | 95.08% |
| CA | 2723 | 85 | 3.12% | 43 | 1.58% | 2595 | 95.30% |
| CO | 677 | 4 | 0.59% | 9 | 1.33% | 664 | 98.08% |
| CT | 445 | 37 | 8.31% | 0 | 0.00% | 408 | 91.69% |
| DC | 303 | 0 | 0.00% | 0 | 0.00% | 303 | 100.00% |
| DE | 99 | 6 | 6.06% | 0 | 0.00% | 93 | 93.94% |

| State/ Territory* | Total ZIP Codes | Total ZIP Codes Changed Rural to Urban | Percentage of Total ZIP Codes | Total ZIP Codes Changed Urban to Rural | Percentage Of Total ZIP Codes | Total ZIP Codes Not Changed | Percentage of Total ZIP Codes Not Changed |
|----------------------|--------------------|---|-------------------------------------|--|-------------------------------------|---|---|
| EK | 63 | 0 | 0.00% | 0 | 0.00% | 63 | 100.00% |
| EM | 857 | 35 | 4.08% | 4 | 0.47% | 818 | 95.45% |
| FL | 1513 | 69 | 4.56% | 9 | 0.59% | 1435 | 94.84% |
| FM | 4 | 0 | 0.00% | 0 | 0.00% | 4 | 100.00% |
| GA | 1032 | 47 | 4.55% | 4 | 0.39% | 981 | 95.06% |
| GU | 21 | 0 | 0.00% | 0 | 0.00% | 21 | 100.00% |
| HI | 143 | 9 | 6.29% | 3 | 2.10% | 131 | 91.61% |
| IA | 1080 | 20 | 1.85% | 3 | 0.28% | 1057 | 97.87% |
| ID | 335 | 0 | 0.00% | 0 | 0.00% | 335 | 100.00% |
| IL | 1628 | 68 | 4.18% | 7 | 0.43% | 1553 | 95.39% |
| IN | 1000 | 33 | 3.30% | 20 | 2.00% | 947 | 94.70% |
| KY | 1030 | 30 | 2.91% | 5 | 0.49% | 995 | 96.60% |
| LA | 739 | 69 | 9.34% | 1 | 0.14% | 669 | 90.53% |
| MA | 751 | 8 | 1.07% | 9 | 1.20% | 734 | 97.74% |
| MD | 630 | 69 | 10.95% | 0 | 0.00% | 561 | 89.05% |
| ME | 505 | 5 | 0.99% | 12 | 2.38% | 488 | 96.63% |
| MH | 2 | 0 | 0.00% | 0 | 0.00% | 2 | 100.00% |
| MI | 1185 | 22 | 1.86% | 21 | 1.77% | 1142 | 96.37% |
| MN | 1043 | 31 | 2.97% | 7 | 0.67% | 1005 | 96.36% |
| MP | 3 | 0 | 0.00% | 0 | 0.00% | 3 | 100.00% |
| MS | 541 | 14 | 2.59% | 1 | 0.18% | 526 | 97.23% |
| MT | 411 | 0 | 0.00% | 3 | 0.73% | 408 | 99.27% |
| NC | 1101 | 87 | 7.90% | 10 | 0.91% | 1004 | 91.19% |
| ND | 419 | 2 | 0.48% | 0 | 0.00% | 417 | 99.52% |
| NE | 632 | 7 | 1.11% | 6 | 0.95% | 619 | 97.94% |
| NH | 292 | 0 | 0.00% | 2 | 0.68% | 290 | 99.32% |
| NJ | 747 | 1 | 0.13% | 2 | 0.27% | 744 | 99.60% |
| NM | 438 | 4 | 0.91% | 2 | 0.46% | 432 | 98.63% |
| NV | 257 | 1 | 0.39% | 2 | 0.78% | 254 | 98.83% |
| NY | 2246 | 84 | 3.74% | 42 | 1.87% | 2120 | 94.39% |
| OH | 1487 | 23 | 1.55% | 54 | 3.63% | 1410 | 94.82% |
| OK | 791 | 5 | 0.63% | 7 | 0.88% | 779 | 98.48% |
| OR | 495 | 26 | 5.25% | 9 | 1.82% | 460 | 92.93% |
| PA | 2244 | 129 | 5.75% | 38 | 1.69% | 2077 | 92.56% |
| PR | 177 | 21 | 11.86% | 0 | 0.00% | 156 | 88.14% |
| PW | 2 | 0 | 0.00% | 0 | 0.00% | 2 | 100.00% |
| RI | 91 | 2 | 2.20% | 1 | 1.10% | 88 | 96.70% |
| SC | 543 | 47 | 8.66% | 2 | 0.37% | 494 | 90.98% |
| SD | 418 | 0 | 0.00% | 1 | 0.24% | 417 | 99.76% |
| TN | 814 | 52 | 6.39% | 12 | 1.47% | 750 | 92.14% |

| State/ Territory* | Total ZIP Codes | Total ZIP Codes Changed Rural to Urban | Percentage of Total ZIP Codes | Total ZIP Codes Changed Urban to Rural | Percentage Of Total ZIP Codes | Total ZIP Codes Not Changed | Percentage of Total ZIP Codes Not Changed |
|----------------------|--------------------|---|-------------------------------------|--|-------------------------------------|---|---|
| TX | 2726 | 64 | 2.35% | 32 | 1.17% | 2630 | 96.48% |
| UT | 359 | 2 | 0.56% | 0 | 0.00% | 357 | 99.44% |
| VA | 1277 | 98 | 7.67% | 19 | 1.49% | 1160 | 90.84% |
| VI | 16 | 0 | 0.00% | 0 | 0.00% | 16 | 100.00% |
| VT | 309 | 3 | 0.97% | 0 | 0.00% | 306 | 99.03% |
| WA | 744 | 17 | 2.28% | 6 | 0.81% | 721 | 96.91% |
| WI | 919 | 19 | 2.07% | 5 | 0.54% | 895 | 97.39% |
| WK | 711 | 11 | 1.55% | 7 | 0.98% | 693 | 97.47% |
| WM | 342 | 2 | 0.58% | 3 | 0.88% | 337 | 98.54% |
| WV | 936 | 149 | 15.92% | 3 | 0.32% | 784 | 83.76% |
| WY | 198 | 0 | 0.00% | 1 | 0.51% | 197 | 99.49% |
| | | | | | | | |
| TOTALS | 42919 | 1600 | 3.73% | 451 | 1.05% | 40868 | 95.22% |

* ZIP code analysis includes U.S. States and Territories (FM- Federated States of Micronesia, GU – Guam, MH- Marshall Islands, MP-Northern Mariana Islands, PW- Palau, AS- American Samoa; VI- Virgin Islands; PR- Puerto Rico). Missouri is divided into east and west regions due to work distribution of the Medicare Administrative Contractors (MACs): EM- East Missouri, WM – West Missouri. Johnson and Wyandotte counties in Kansas were changed as of January 2010 to East Kansas (EK) and the rest of the state is West Kansas (WK).

5. On page 67749, third column, first partial paragraph,

a. Line 4, the phrase “indicates that 3,038 ZIP codes” is corrected to read “indicates that 1,600 ZIP codes”.

b. Line 9, the phrase “analysis indicates 387 ZIP codes” is corrected to read “analysis indicates 451 ZIP codes”.

6. On page 67750, second column, second full paragraph,

a. Line 4, the phrase “(a total of 3,425 ZIP codes” is corrected to read “(a total of 2,051 ZIP codes”.

b. Line 6, the phrase “42,918 ZIP codes, or 7.98 percent)” is corrected to read “42,919 ZIP codes, or 4.78 percent)”.

7. On page 67993, first column, third full paragraph,

- a. Line 2, the phrase “approximately 92.02” is corrected to read “approximately 95.22”.
- b. Line 7, the phrase “from rural to urban (3,038” is corrected to read “from rural to urban (1,600”.
- c. Line 8, the phrase “or 7.08 percent)” is corrected to read “or 3.73 percent)”.
- d. Line 9, the phrase “(387 or 0.90 percent)” is corrected to read “(451 or 1.05 percent).”.
- e. Line 14, the phrase “providers and suppliers in 387 ZIP” is corrected to read “providers and suppliers in 451 ZIP”.
- f. Line 15, the phrase “codes within 41 states” is corrected to read “codes within 42 states”.
- g. Line 21, the phrase “3,038 ZIP codes within 46 states” is corrected to read “1,600 ZIP codes within 44 states”.

CMS-1612-CN

Dated: December 23, 2014.

C'Reda Weeden

Executive Secretary to the Department,

Department of Health and Human Services.

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